



House of Representatives

General Assembly

File No. 60

February Session, 2000

Substitute House Bill No. 5161

House of Representatives, March 13, 2000

The Committee on Labor and Public Employees reported through REP. DONOVAN of the 84th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

An Act Concerning Lost And Replacement Wages For Injured Employees.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 31-308a of the general statutes is repealed and the following
2 is substituted in lieu thereof:

3 (a) In addition to the compensation benefits provided by section 31-
4 308 for specific loss of a member or use of the function of a member of
5 the body, or any personal injury covered by this chapter, the
6 commissioner, after such payments provided by said section 31-308
7 have been paid for the period set forth in said section, may award
8 additional compensation benefits for such partial permanent disability
9 equal to seventy-five per cent of the difference between the wages
10 currently earned by an employee in a position comparable to the
11 position held by such injured employee prior to [his] such employee's
12 injury, after such wages have been reduced by any deduction for

13 federal or state taxes, or both, and for the federal Insurance
14 Contributions Act in accordance with section 31-310, and the weekly
15 amount [which] that such employee will probably be able to earn
16 thereafter, after such amount has been reduced by any deduction for
17 federal or state taxes, or both, and for the federal Insurance
18 Contributions Act in accordance with section 31-310, to be determined
19 by the commissioner based upon the nature and extent of the injury,
20 the training, education and experience of the employee, the availability
21 of work for persons with such physical condition and at the
22 employee's age, but not more than one hundred per cent, raised to the
23 next even dollar, of the average weekly earnings of production and
24 related workers in manufacturing in the state, as determined in
25 accordance with the provisions of section 31-309. If evidence of exact
26 loss of earnings is not available, such loss may be computed from the
27 proportionate loss of physical ability or earning power caused by the
28 injury. The commissioner shall determine the duration of such
29 additional compensation [shall be determined] upon a similar basis,
30 [by the commissioner,] but in no event shall the duration of such
31 additional compensation exceed the [lesser] greater of (1) the duration
32 of the employee's permanent partial disability benefits, or (2) [five
33 hundred twenty] two hundred sixty weeks. Additional benefits
34 provided under this section shall be available only to (A) employees
35 who are willing and able to perform work in this state, and (B)
36 employees who are unable to perform work in this state due to a
37 physical condition documented by a treating physician.

38 (b) Notwithstanding the provisions of subsection (a) of this section,
39 additional benefits provided under this section shall be available only
40 when the nature of the injury and its effect on the earning capacity of
41 an employee warrant additional compensation.

42 (c) Notwithstanding the provisions of subsection (a) of this section,
43 in calculating the additional compensation benefits available to an
44 employee who is unable to perform work in this state due to a physical

45 condition documented by a treating physician, the commissioner shall
46 utilize the wages currently earned by an employee in this state in a
47 position comparable to the position held by such injured employee
48 prior to such employee's injury, after such wages have been reduced
49 by any deduction for federal or state taxes, or both, and for the federal
50 Insurance Contributions Act in accordance with section 31-310, and the
51 weekly amount that such injured employee would probably be able to
52 earn in this state thereafter, after such amount has been reduced by
53 any deduction for federal or state taxes, or both, and for the federal
54 Insurance Contributions Act in accordance with section 31-310, to be
55 determined by the commissioner based upon the nature and extent of
56 the injury, the training, education and experience of the injured
57 employee, the availability of work in this state for persons with such
58 physical condition and at the employee's age, but not more than one
59 hundred per cent, raised to the next even dollar, of the average weekly
60 earnings of production and related workers in manufacturing in this
61 state, as determined in accordance with the provisions of section
62 31-309.

LAB Committee Vote: Yea 9 Nay 2 JFS

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either House thereof for any purpose:

OFA Fiscal Note

State Impact: Cost

Affected Agencies: Workers' Compensation Commission, State Treasurer (Second Injury Fund), Various State Agencies

Municipal Impact: Cost

Explanation**State and Municipal Impact:**

The passage of this bill would result in additional costs to both the state and municipalities and to the state Second Injury Fund. The cost to the state as an employer is estimated to be from \$225,000 to \$275,000 per year, and Second Injury Fund cost is estimated at \$350,000 to \$450,000 per year. Most municipalities utilize insurance for their workers' compensation. The estimated cost increase for workers' compensation insurance premiums is 0.5% (one-half of one percent).

The bill gives workers' compensation commissioners more discretion in awarding extra wage differential benefits to workers whom lose earning power because of job-related permanent partial disabilities. (Up to 260 weeks, regardless of the duration of the claimant's permanent partial disability benefits.) The National Council on Compensation Insurance has estimated that this would result in a one-half of one percent (0.5%) total increase in workers' compensation

costs. The Department of Administrative Services has estimated that the annual state costs would be \$225,000 to \$275,000. The Treasurer's Office has estimated that while the bill would have a minimal fiscal impact (less than \$100,000) on second injury benefits, it would increase the no-insurance claims, which includes stipulated settlements and medical and payroll benefits. They estimate costs to be between \$350,000 and \$450,000 per fiscal year. The administrative costs to the Treasurer's Office would be covered within current budgetary resources.

The increase in the amount of extra wage differential benefits could encourage more workers to seek these benefits, resulting in an increase in the number of hearings by the Workers' Compensation Commission. The increase in the number of hearings, and therefore the increase in costs, is anticipated to be minimal.

OLR Bill Analysis

sHB 5161

AN ACT CONCERNING LOST AND REPLACEMENT WAGES FOR INJURED EMPLOYEES.**SUMMARY:**

This bill gives workers' compensation commissioners discretion to award wage differential benefits for up to 260 weeks (five years) or the duration of the claimant's permanent partial disability (PPD) benefits, whichever is greater. Current law allows commissioners to award these benefits for up to the duration of the claimant's PPD benefits. The duration of PPD benefits ranges from one week for injury to a tooth to 10 years for permanent disability to the heart or brain.

A claimant must be willing and able to work in Connecticut to receive wage differential benefits. The bill removes this requirement if a claimant is unable to work in the state due to a physical condition documented by a physician. Benefits for these claimants are based on Connecticut wages and cannot exceed the state average weekly production wage (currently \$637).

EFFECTIVE DATE: October 1, 2000

BACKGROUND***PPD Benefits***

A commissioner may award wage differential benefits after a claimant's PPD benefits have ended. PPD benefits are for loss of body parts or a reduction of function in a body part. The duration and amount of PPD awards are set in statute.

Wage Differential Benefits

Wage differential benefits compensate claimants for their loss of earning power. They are calculated as 75% of the difference between

what the claimant earned in take-home pay prior to the injury and what he is able to earn in take-home pay after the injury, taking into consideration such things as the extent of the injury and the claimant's education, experience, and age. They cannot exceed the state average weekly production wage (currently \$637).

COMMITTEE ACTION

Labor and Public Employees Committee

Joint Favorable Substitute

Yea 9 Nay 2